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AUTHORITY: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

SOURCE: T.D. 7020, 34 FR 20337, Dec. 30, 1969, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 5 appear by T.D. ATF-425, 65 FR 11891, Mar. 7, 2000.

Subpart A—Scope

§ 5.1 General.

The regulations in this part relate to the labeling and advertising of distilled spirits. This part applies to the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, but does not apply to distilled spirits for export.

§ 5.2 Related regulations.

The following regulations also relate to this part:

- 7 CFR Part 205—National Organic Program
- 27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits
- 27 CFR Part 4—Labeling and Advertising of Wine
- 27 CFR Part 7—Labeling and Advertising of Malt Beverages
- 27 CFR Part 13—Labeling Proceedings

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27 CFR Part 16—Alcoholic Beverage Health Warning Statement

27 CFR Part 19—Distilled Spirits Plants

27 CFR Part 26—Liquors and Articles From Puerto Rico and the Virgin Islands

27 CFR Part 27—Importation of Distilled Spirits, Wines, and Beer

27 CFR Part 71—Rules of Practice in Permit Proceedings

27 CFR Part 252—Exportation of Liquors

[T.D. ATF-483, 67 FR 62858, Oct. 8, 2002]

§ 5.3 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22153-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-92, 46 FR 46912, Sept. 23, 1981, as amended by T.D. ATF-249, 52 FR 5956, Feb. 27, 1987; T.D. 372, 61 FR 20723, May 8, 1996; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

§ 5.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this part 5 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order—Delegation of the Director’s Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages. ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150-5190, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

Subpart B—Definitions

§ 5.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not

otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such Act.

Act. The Federal Alcohol Administration Act.

Advertisement. See §5.62 for meaning of term as used in subpart H of this part.

Age. The period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. “Age” for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak containers.

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.2A, Delegation Order—Delegation of the Director’s Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

Bottle. Any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

Brand label. The principal display panel that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale, and any other label appearing on the same side of the bottle as the principal display panel. The principal display panel appearing on a cylindrical surface is that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Distilled spirits. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions

and mixtures thereof, for nonindustrial use. The term “distilled spirits” shall not include mixtures containing wine, bottled at 48 degrees of proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Gallon. U.S. gallon of 231 cubic inches of alcoholic beverage at 60 °F.

In bulk. In containers having a capacity in excess of 1 wine gallon (3.785 liters).

Interstate or foreign commerce. Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

Liter or litre. A metric unit of capacity equal to 1,000 cubic centimeters of distilled spirits at 15.56 °C (60 °F.), and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1,000 milliliters. milliliter or milliliters may be abbreviated as “ml”.

Permittee. Any person holding a basic permit under the Federal Alcohol Administration Act.

Person. Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term “trade buyer” means any person who is a wholesaler or retailer.

Produced at. As used in §§5.22 and 5.52 in conjunction with specific degrees of proof to describe the standards of identity, means the composite proof of the spirits after completion of distillation and before reduction in proof.

Proof gallon. A gallon of liquid at 60 °F. which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 °F. referred to water at 60 °F. as unity, or the alcoholic equivalent thereof.

Season. The period from January 1 through June 30, is the spring season and the period from July 1 through December 31 is the fall season.

United States. The several States and Territories and the District of Columbia; the term “State” includes a Territory and the District of Columbia; and

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the term “Territory” means the Commonwealth of Puerto Rico.

(26 U.S.C. 7805 (68 Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF-48, 43 FR 13533, Mar. 31, 1978; 44 FR 55839, Sept. 28, 1979, as amended by T.D. ATF-62, 44 FR 71620, Dec. 11, 1979; T.D. ATF-66, 45 FR 40547, June 13, 1980; T.D. ATF-94, 46 FR 55096, Nov. 6, 1981; T.D. ATF-198, 50 FR 8463, Mar. 1, 1985; T.D. ATF-230, 51 FR 21748, June 16, 1986; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

Subpart C—Standards of Identity for Distilled Spirits

§5.21 Application of standards.

The standards of identity for the several classes and types of distilled spirits set forth in this part shall be applicable only to distilled spirits for beverage or other nonindustrial purposes.

§5.22 The standards of identity.

Standards of identity for the several classes and types of distilled spirits set forth in this section shall be as follows (see also §5.35, class and type):

(a) *Class 1; neutral spirits or alcohol.* “Neutral spirits” or “alcohol” are distilled spirits produced from any material at or above 190° proof, and, if bottled, bottled at not less than 80° proof.

(1) “Vodka” is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color.

(2) “Grain spirits” are neutral spirits distilled from a fermented mash of grain and stored in oak containers.

(b) *Class 2; whisky.* “Whisky” is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, stored in oak containers (except that corn whisky need not be so stored), and bottled at not less than 80° proof, and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

(1)(i) “Bourbon whisky”, “rye whisky”, “wheat whisky”, “malt whisky”, or “rye malt whisky” is whisky produced at not exceeding 160° proof from a fermented mash of not less than 51

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percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored at not more than 125° proof in charred new oak containers; and also includes mixtures of such whiskies of the same type.

(ii) “Corn whisky” is whisky produced at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, and if stored in oak containers stored at not more than 125° proof in used or uncharred new oak containers and not subjected in any manner to treatment with charred wood; and also includes mixtures of such whisky.

(iii) Whiskies conforming to the standards prescribed in paragraphs (b)(1)(i) and (ii) of this section, which have been stored in the type of oak containers prescribed, for a period of 2 years or more shall be further designated as “straight”; for example, “straight bourbon whisky”, “straight corn whisky”, and whisky conforming to the standards prescribed in paragraph (b)(1)(i) of this section, except that it was produced from a fermented mash of less than 51 percent of any one type of grain, and stored for a period of 2 years or more in charred new oak containers shall be designated merely as “straight whisky”. No other whiskies may be designated “straight”. “Straight whisky” includes mixtures of straight whiskies of the same type produced in the same State.

(2) “Whisky distilled from bourbon (rye, wheat, malt, or rye malt) mash” is whisky produced in the United States at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored in used oak containers; and also includes mixtures of such whiskies of the same type. Whisky conforming to the standard of identity for corn whisky must be designated corn whisky.

(3) “Light whisky” is whisky produced in the United States at more than 160° proof, on or after January 26, 1968, and stored in used or uncharred new oak containers; and also includes mixtures of such whiskies. If “light